MULTIMEDIA UNIVERSITY

STUDENT IDENTIFICATION NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3 2015/2016 SESSION

UHL2612 - HUMAN RIGHTS LAW

(All sections / Groups)

2nd JUNE 2016

Reading Time: 2:30 p.m. to 2:45 p.m.
(15 Minutes)
Answering Time: 2:45 p.m. to 5:45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages. It has two Parts. Part A and Part B. **Question One in Part A is COMPULSORY. There are three Questions in Part B. Answer Only TWO Questions from Part B.** The distribution of marks for each question and sub-question is given.

3. Students are not allowed to take any Statute into the Examination Hall.

4. Please write all your answers in the Answer Booklet provided.

PART A. THIS QUESTION MUST BE ANSWERED

QUESTION 1

Define and briefly explain the following terms:

(a) The *Fourth Geneva Conventions* of 12 August 1949 is a **universal** Convention dealing with international humanitarian law. Briefly explain what is international humanitarian law, the four parts of the *1949 Geneva Conventions*, and why they are considered universal.

(12 marks)

(b) 'First Generation Rights' and 'Third Generation Rights' as development in international human rights since the adoption of *Universal Declaration of Human Rights* by the United Nations General Assembly in December 1948.

(14 marks)

(c) The exclusion of political groups and cultural groups as 'target groups' in the definition of 'genocide' in the *1948 Convention on the Prevention and Punishment of the Crime of Genocide* and the reasons for such exclusions.

(14 marks)

(Total: 40 marks)

Continued ...

PART B: ANSWER ONLY TWO QUESTIONS FROM THIS PART

QUESTION 2

Certain feminists have criticized that the definition of 'torture' as stated in the *1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('Torture Convention')* by focusing on acts done, authorized or 'acquiesced' by public or government officials automatically exclude 'domestic violence' (as amounting to an international crime) under the *Torture Convention.*

(a) Briefly elaborate on the above criticism, in your own words referring to key phrases in the definition of torture in the *Torture Convention.*

(8 marks)

(b) Do you fully or partly agree or disagree with the above criticisms by certain feminists. Why or why not? Give reasons in your answer.

(10 marks)

(c) Several years ago a New York Times *newspaper article published an interview with Burmese (Myanmar) nationals who were caned (beaten with the* rottan*) for ostensibly for offences such as 'illegal entry into Malaysia' or for overstaying the visas. The article commented that such actions could amount to 'torture' even though Malaysia was –and still not yet (as of May 2016) –* ***not*** *a State party to the* Torture Convention'.

Assuming that Malaysia is a State party to the *Torture Convention* do you think the sentence of caning the Burmese nationals for immigration offences after they were charged and meted out the sentence by a court amounted to 'torture' as defined in the *Torture Convention* or not. Give reasons in your answer.

(12 marks)

(Total: 30 marks)

Continued ...

QUESTION 3

(a) *Many scholars including feminists and others have criticized most Muslim majority states including Malaysia that express reservations (among others) when they ratified or acceded to the* 1981 Convention on the Elimination of All Forms of Discrimination Against Women (*CEDAW). These reservations, in effect, stated that if the CEDAW's provisions with Shariah law it would be 'inapplicable'. The critics of these reservations argue that such reservations arguably 'defeat the purpose'. of CEDAW. Still, the countries were 'allowed' so to speak, to ratify or accede to CEDAW.*

(i) In the context of CEDAW what does 'reservations incompatible with purpose of a treaty mean?

(6 marks)

(ii) Why is it that despite the arguments above CEDAW allows such reservations? In your personal opinion such reservations be allowed or not? Give reasons in your answer.

(14 marks)

(b) The right to be free from torture can primarily be considered as an 'individual right' and the right of self-determination in the context of international human rights law can be considered as a 'collective right' ? Do you agree with the statement or not? Briefly explain your answer. In your answer briefly state to which 'collective group of peoples' is the right of self-determination primarily applicable.

(10 marks)
(Total: 30 marks)

Continued ...

QUESTION 4

Currently, among the major international human rights conventions or covenants, Malaysia is a State party to 1926 Slavery Convention, 1948 Genocide Convention, 1981 Convention on the Elimination of All Forms of Discrimination Against Women, 1989 Convention of the Rights of the Child. *Malaysia is* ***not*** *a State party to the* 1966 International Covenant on Civil and Political Rights (ICCPR), 1966 International Covenant on Economic Social and Cultural Rights (ICESCR), 1984 Torture Convention and 1998 Statute of the International Criminal Court (ICC Statute).

Malaysia has signed but not ratified the ICC Statute but has not taken any step to accede to ICCPR,ICESCR, *and* Torture Convention.

(a) Briefly explain the main concerns (apparently from the Attorney-General Office) of Malaysia for its reluctance to recommend that Malaysia ratify or accede to the ICC Statute

(5 marks)

(b) If you were to recommend to the Malaysian government in order of priority **only three** (out of four) (that is ICCPR, ICESCR, *Torture Convention* and ICC Statute) which three (in order of your preference) would you recommend. Number your preferences (1), (2), (3) and explain with reasoned arguments why you would recommend the three you have chosen and among the three that you have chosen which one is the most important (personally) for you and which one is the least important for you and why. Give reasoned arguments in your answers.

(25 marks)

(Total: 30 marks)

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